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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9
10 JOHN R. BUND II,

11 Plaintiff,

12 v.

13 SAFEGUARD PROPERTIES, LLC,

14 Defendant.

CASE NO. C16-0920JLR

ORDER ON ATTORNEYS' FEES

15 I. INTRODUCTION

16 Before the court is Plaintiffs John R. Bund II, Mandy Hanousek, and Garrett
17 Hanousek's motion for an award of attorneys' fees. (Mot. (Dkt. # 59).) Defendant
18 Safeguard Properties, LLC ("Safeguard") opposes the amount of fees that Plaintiffs seek.
19 (Resp. (Dkt. # 61).) Plaintiffs' reply and accompanying exhibits provide further support
20 for the award of fees. (Reply (Dkt. # 63).) The court has considered the parties'
21 submissions, the relevant portions of the record, and the applicable law. Considering

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1 | itself fully advised,¹ the court grants in part and denies in part Plaintiffs' motion for
2 | attorneys' fees and costs as described herein.

3 | II. BACKGROUND

4 | Plaintiffs bring a putative class action against Safeguard alleging claims for
5 | trespass (SAC (Dkt. # 44) ¶¶ 7.1-7.7), intentional trespass under RCW 4.24.630 (*id.*
6 | ¶¶ 8.1-8.15), violation of the Washington Consumer Protection Act ("CPA"), RCW ch.
7 | 19.86 (*id.* ¶¶ 9.1-9.9), and conversion (*id.* ¶¶ 10.1-10.9). Plaintiffs seek to recover for
8 | damages to real and personal property allegedly incurred while Safeguard was
9 | conducting property preservation services on behalf of Plaintiffs' lenders. (*Generally id.*)

10 | Safeguard filed a motion to dismiss the class claims. (MTD (Dkt. # 14).) The
11 | court denied the motion to dismiss and ruled that pre-discovery dismissal of class
12 | allegations was not proper in this case. (12/30/16 Order (Dkt. # 43).) Despite this order,
13 | Safeguard filed a motion to disqualify and remove the Hanouseks as class representatives
14 | prior to conducting sufficient discovery. (*See* DQ Mot. (Dkt. # 49).) The court denied
15 | the motion to disqualify, and because the motion filed was contrary to the court's
16 | previous order, permitted Plaintiffs to file a motion for costs incurred in responding to
17 | Safeguard's motion to disqualify. (*See* Min. Entry (Dkt. # 58).)

18 | Plaintiffs moved for fees consistent with the court's minute entry. (*See generally*
19 | Mot). Safeguard asserts that the requested fees are not reasonable. (Resp.) The court
20 | now addresses Plaintiffs' motion.

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22 | ¹ No party has requested oral argument, and the court deems it unnecessary to the
disposition of this motion. *See* Local Rules W.D. Wash. LCR 7(b)(4).

III. ANALYSIS

A. Legal Standard

To determine whether requested fees are reasonable, the court applies the lodestar method. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). Under this method, the court first determines a lodestar figure by multiplying the number of hours reasonably spent on the litigation by a reasonable hourly rate. *Id.* The court “may then adjust this lodestar calculation by other factors.” *Blanchard v. Bergeron*, 489 U.S. 87, 94 (1989). “The fee applicant bears the burden of documenting the appropriate hours expended in the litigation and must submit evidence in support of those hours worked.” *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 948 (9th Cir. 2007).

A reasonable hourly rate corresponds to the prevailing market rate in the relevant community considering the experience, skill, and reputation of the attorneys in question. *Chalmers v. City of L.A.*, 796 F.2d 1205, 1210 (9th Cir. 1986), *amended on other grounds*, 808 F.2d 1373 (9th Cir. 1987). In assessing whether the attorneys spent a reasonable number of hours on the litigation, courts may consider, among other factors: the time and labor required, novelty and difficulty of the questions involved, the skill necessary to perform the legal services properly, the time limitations imposed by the client or circumstances, the amount in controversy involved and the results obtained, and the experience, reputation, and ability of the attorneys. *LaFarge Conseils et Etudes, S.A. v. Kaiser Cement & Gypsum Corp.*, 791 F.2d 1334, 1341-42 (9th Cir. 1986) (citing *Kerr v. Screen Extra Guild, Inc.*, 526 F.2d 67, 69-70 (9th Cir. 1975)). The court need only apply those factors that are relevant to the particular case. *See Kerr*, 526 F.2d at 70.

1 **B. Application**

2 Plaintiffs request the \$7,457.75 in attorneys' fees for 29 hours of work performed
3 by three attorneys, Clay M. Gatens, Sally F. White, and Devon A. Gray, billed at rates
4 ranging from \$205.00 to \$330.00 an hour. (Mot. at 2.) In support of their instant motion,
5 Plaintiffs submit a Matter Ledger Report ("the Report") detailing the fees attributed to the
6 motion to disqualify. (See White Decl. (Dkt. # 60), Ex. A.) Upon review of the billing
7 record, the court concludes that Plaintiffs are entitled to most but not all of the fees they
8 request.

9 1. Reasonable Hourly Rates

10 The established standard when determining a reasonable hourly rate is the "rate
11 prevailing in the community for similar work performed by attorneys of comparable skill,
12 experience, and reputation." *Chalmers*, 796 F.2d at 1210-11. For purposes of
13 determining a reasonable hourly rate, the relevant "community" is the Western District of
14 Washington. See *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008).
15 Affidavits from attorneys regarding prevailing fees and rate determinations in other cases
16 can provide evidence of the prevailing market rate. *United Steelworkers of Am. v. Phelps*
17 *Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990). The court should also consider the
18 experience, skill, and reputation of the attorneys requesting fees. See *Schwarz v. Sec'y of*
19 *Health & Human Servs.*, 73 F.3d 895, 906 (9th Cir. 1995).

20 The hourly rates requested are as follows: \$330.00 for Mr. Gatens, a partner at
21 Jeffers, Danielson, Sonn & Aylward, P.S. with over ten years of experience; \$275.00 for
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1 Ms. White, a senior associate with over five years of experience; and \$205.00² for Ms.
2 Gray, a first-year associate attorney. (Reply at 3.) Ms. White's declaration provides
3 support for the reasonableness of these fees in the relevant community (White Decl. at 2),
4 as do recent decisions from the Western District of Washington, *See e.g. Fulton v.*
5 *Livingston Fin. LLC*, No. C15-0574JLR, 2016 WL 3976558 at *4 (W.D. Wash. July 25,
6 2016) (finding \$300.00 a reasonable hourly rate in the relevant community); *Rodriguez v.*
7 *Nancy A. Smith & Assocs.*, No. C12-5252RBL, 2012 WL 5207545, at *3 (W.D. Wash.
8 Oct. 22, 2012) (finding hourly rates ranging from \$160.00 to \$265.00 to be reasonable).

9 The hourly rates from these cases comport with the court's "own knowledge of
10 customary rates and [its] experience concerning reasonable and proper fees." *Ingram v.*
11 *Oroudjian*, 647 F.3d 925, 928 (9th Cir. 2011) (per curiam). The court thus concludes that
12 \$330.00 per hour is a reasonable rate for Mr. Gatens' services in this case; that \$275.00
13 per hour is a reasonable rate for Ms. White's services in this case; and that \$205.00 per
14 hour is a reasonable rate for Ms. Gray's services in this case.

15 2. Hours Reasonably Worked

16 In determining the amount of hours reasonably spent, courts grant deference to the
17 winning attorney's professional judgment as to how much time was required to prevail on
18 the motion. *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008).

19 However, courts should exclude from their calculation hours that lack adequate

20 ² The Report uses an hourly rate of \$205.00 for Ms. Gray, although Plaintiffs' reply states
21 that Ms. Gray's hourly rate is \$210.00. (Reply at 3.) The lower rate comports with the amount
22 Plaintiffs request at the outset — \$7,457.75 — and thus the court accepts that \$205.00 as the rate
Plaintiffs seek to apply to the hours worked by Ms. Gray for the purposes of this motion. (*See*
Mot. at 2.)

1 documentation, or which, though documented, were excessive, redundant, or otherwise
2 unnecessary. *Hensley*, 461 U.S. at 434. The court finds that Plaintiffs seek compensation
3 for some hours were not adequately documented, as well as some hours that are
4 redundant or excessive, and adjusts the award accordingly. *See Hall v. City of Auburn*,
5 567 F. Supp. 1222, 1227 (D. Me. 1983) (reducing lodestar amount due to inadequate
6 documentation where court is “unable to ascertain whether or not there has been
7 unwarranted duplication of effort.”)

8 Two line items in the Report inadequately describe the work performed. Line item
9 9, dated February 3, 2017, describes 0.5 hours worked by Mr. Gatens as “Work re
10 response to motion to disqualify lead plaintiffs.” (Report at 9.) In addition, Line item 18,
11 dated March 1, 2017, describes 0.25 hours worked by Mr. Gatens as “Work re motion for
12 fees to Disqualify.” (*Id.* at 18.) Without a more detailed description, the court is unable
13 to ascertain whether this work duplicates other work performed. Thus, the court excludes
14 these line items from its calculation.

15 Additionally, Mr. Gatens billed one hour for preparing for and attending the
16 telephonic hearing on February 27, 2017 (*Id.* at 16), despite not appearing at that hearing
17 (Reply at 6). Although Plaintiffs assert that Mr. Gatens attended the hearing “in a
18 supervisory capacity,” this redundant staffing decision was not proximately caused by
19 Safeguard’s sanctioned filing. *Goodyear Tire & Rubber Co. v. Haeger*, --- U.S. ---,
20 137 S. Ct. 1178, 1189 (2017) (holding that a federal court’s inherent authority to sanction
21 litigants by shifting fees is limited to fees that “were incurred because of, and solely
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1 because of, the misconduct at issue.”) Accordingly, the court excludes this hour of work
2 from its calculation.

3 Given the scope and nature of the motion to disqualify and response, the
4 remaining hours reported are sufficiently reasonable. *See e.g. Kacsuta v. Lenovo (United*
5 *States) Inc.*, No. SACV 1300316CJCRNBX, 2014 WL 12585787, at *7 (C.D. Cal. Dec.
6 16, 2014) (finding that opposing a motion to dismiss a class action “could have been
7 completed in 80 hours”).

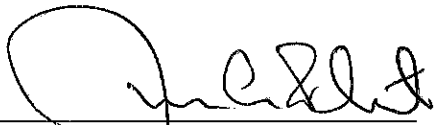
8 3. Calculations

9 Mr. Gatens reported 6.25 hours of work related to the motion to disqualify and the
10 motion for fees. (Report.) The court concluded that Mr. Gatens’ reasonable hourly rate
11 is \$330.00. Deducting the 1.75 hours that were inadequately documented or redundant,
12 Mr. Gatens reasonably reported 4.5 hours in working on the motion for fees. The court
13 thus awards \$1,485.00 as compensation for Mr. Gatens’ time. Ms. White reported 10.45
14 hours of work related to the motion to disqualify, and the court concludes that her
15 reasonable hourly rate is \$275.00. The court thus awards \$2,873.75 as compensation for
16 Ms. White’s time worked on the motion to disqualify. Ms. Gray reported 12.3 hours of
17 work related to the motion to disqualify, and the court concludes that her reasonable
18 hourly rate is \$205.00. The court thus awards \$2,521.50 as compensation for Ms. Gray’s
19 time worked on the motion to disqualify. In sum, the court awards \$6,880.25 in fees to
20 Plaintiffs.
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1 IV. CONCLUSION

2 For the foregoing reasons, the court GRANTS in part and DENIES in part
3 Plaintiffs' motion (Dkt. # 59) and awards Plaintiffs a total of \$6,880.25 in reasonable
4 attorneys' fees.

5 Dated this 28th day of April, 2017.

6 
7 JAMES L. ROBART
8 United States District Judge